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*Counsel for Scott J. Goldstein,
Personal Injury Trustee for the
Powell Valley Health Care, Inc.
Personal Injury Trust*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

SCOTT J. GOLDSTEIN, TRUSTEE OF
THE POWELL VALLEY HEALTH
CARE, INC., PERSONAL INJURY
TRUST,

Plaintiff,

v.

HOMELAND INSURANCE COMPANY
OF NEW YORK, and WYOMING
FINANCIAL INSURANCE, INC.,

Defendants.

Case No. 2:18-CV-121-ABJ

RESPONSE TO ORDER TO SHOW CAUSE

Plaintiff Scott J. Goldstein, in his capacity as the Personal Injury Trustee of the Powell Valley Health Care, Inc. Personal Injury Trust (the "Trustee"), hereby files this

response to the Court's order to show cause dated September 14, 2020 [Doc. 21]. In support, the Trustee states as follows:

1. On May 15, 2016, Powell Valley Health Care, Inc. ("PVHC") filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Wyoming (the "Bankruptcy Court").

2. The Bankruptcy Court confirmed PVHC's Modified Amended Chapter 11 Plan of Reorganization for Powell Valley Health Care, Inc. (the "Plan") by order dated January 24, 2018.

3. Pursuant to Section 7.9 of the Plan and as defined in the Glossary incorporated therein, PVHC transferred, among other things, all of its rights regarding and relating to any and all claims against the Insurance Companies (as defined in the Plan), including defendants Homeland Insurance Company of New York ("Homeland"), and Wyoming Financial Insurance, Inc. ("Wyoming Financial"), pursuant to 11 U.S.C. §§ 510(c) and 544-553, including claims for avoidance and recovery of transfers made by PVHC of any kind or nature, and including but not limited to insurance premium payments.

4. On or about May 15, 2018, the Trustee filed a complaint (the "Complaint") in the United States Bankruptcy Court for the District of Wyoming, Case No. 18-02021.

5. The Complaint seeks to recover monies paid to Wyoming Financial and/or Homeland as permitted under the Bankruptcy Code and applicable nonbankruptcy law to the extent any judgment, ruling, determination, and/or outcome in the Coverage Litigation (defined herein) results in the value received in exchange for the Transfers (defined herein) being less than reasonably equivalent in value—*e.g.*, PVHC did not receive its bargained-

for insurance coverage on account of the insurance premiums paid to Wyoming Financial. Specifically, the Complaint seeks to recover no less than \$529,083.68 in insurance premiums that PVHC paid to Wyoming Financial on account of certain insurance policies with Homeland within four years of the Debtor filing bankruptcy on May 15, 2016 (the “Transfers”).

6. On or about November 29, 2018, this Court withdrew the reference from the Bankruptcy Court.

7. PVHC and Homeland’s respective rights under insurance policies were also at issue in the case styled *Homeland Insurance Company of New York v. Powell Hospital District, et al.*, No. 15-CV-31-J (the “Coverage Litigation”). The factual and legal issues raised in this action were contingent upon resolution of certain claims pending in the Coverage Litigation.

8. Pursuant to a stipulation dated January 4, 2019, between the Trustee, Homeland, and Wyoming Financial, the parties requested that the Court stay this case pending a final non-appealable order in the Coverage Litigation.

9. This Court then entered an order [Doc. 16] staying this case pending a final non-appealable order in the Coverage Litigation.

10. On April 10, 2020, this Court entered a final non-appealable order in the Coverage Litigation dismissing Homeland with prejudice from the Coverage Litigation. The final non-appealable order did not result in PVHC receiving its bargained-for insurance coverage on account of the Transfers to Wyoming Financial.

11. Any claims the Trustee has in this action against Homeland shall be dismissed pursuant to the Trustee and Homeland’s joint motion to dismiss in the Coverage

Litigation. The Trustee's claims against Wyoming Financial remain and require adjudication. For the avoidance of doubt, no resolution in the Coverage Litigation resulted in resolution of any claims the Trustee has in this case against Wyoming Financial.

12. The Trustee and Wyoming Financial have had discussions regarding a potential amicable resolution of the remaining claims against Wyoming Financial. To the extent discussions are unsuccessful, the Trustee recommends that the Trustee and Wyoming Financial shall notify the Court and seek a status conference.

13. For all of these reasons, the Trustee submits that the Trustee has demonstrated cause why this Court should not dismiss this case against Wyoming Financial.

Date: October 12, 2020

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CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of October, 2020, I electronically filed the foregoing document on the CM/ECF system, which will send a notice of electronic filing to counsel of record for all parties.

/s/ Zachary R.G. Fairlie
*Attorney for Scott J. Goldstein, Trustee
of the Powell Valley Health Care, Inc.,
Personal Injury Trust*